Government Gazette

FOR THE COLONIES OF

VANCOUVER ISLAND AND BRITISH COLUMBIA.

PUBLISHED BY AUTHORITY.

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BRITISH COLUMBIA

PROCLAMATION.

By His Excellency JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in, Chief of the Colony of British Columbia, Vice Admiral of the same, &c., &c.

PROCLAMATION having the force of law in Her Majesty's Colony of British Columbia.

WHEREAS under and by virtue of an act of Parliament made and passed in the session of Parliament, held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, intituled an Act to provide for the Government of British Columbia, and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony, to make laws, institutions and ordinances, for the peace, order and good government of the same.

And Whereas, there has been great irregularities in many *bona fide* dealings in town lots at Lytton, Douglas, Fort Hope and Fort Yale, under the system of Crown Leases heretofore in use in those towns, and instituted by me in September 1858. And the property in many town lots held under such leases, or in parts of such town lots has been often transferred or *bona fide* intended to be transferred for valuable consideration, as well by way of absolute sale, as also by way of mortgage without any instrument in writing, containing apt words to effectuate such intention. And whereas, by reason of such irregularities, it is in many cases impossible, consistently with the known and established rules of evidence relating to land for the persons righteously entitled to the conveyance of such lands from the Crown to establish their title to have such conveyance. And whereas it is expedient to relieve such persons from the inconvenience into which they have innocently fallen.

Now, therefore, I, James Douglas, do hereby proclaim, declare and enact, as follows, viz:

1. It shall be lawful for any person, being actually in possession by himself or his tenant, of any town lot or part of any town lot, in Lytton, Douglas, Fort Hope or Fort Yale, and claiming the fee simple therein, under any conveyance, absolute or by way of mortgage, derived from any lease from the Crown thereof as aforesaid, to present a petition at any time after the date of the issuing hereof, in a summary way, addressed to the Supreme Court of Civil Justice, intituled in the matter of this Proclamation, praying to be declared entitled to have a conveyance to him from the Crown of such town lot or part of a town lot in fee. Such petition may be in the form marked A in the schedule hereto, with such variations as the facts may require, and shall, as accurately as possible, state all the circumstances connected with the alleged devolution of title under such lease, prior to the acquisition of title by the petitioner, and name all the persons appearing to have claimed the ownership of such lot, or part of a lot, prior to the petitioner. Such petition shall be accompanied by an affidavit, made by the petitioner and signed by him, and such affidavit may be in the form marked B in the schedule hereto.

2. Every such petition shall, twenty-one days at least before the day appointed for the hearing thereof, be served upon every person having a known residence within the Colony, and named in the said petition as having at any time claimed title to the land sought to be affected.

And in the case of any person who shall be known to have so claimed title at any time, but whose resid nce

is unknown, or not within the limits of the Colony, such substituted service of the said petition shall be made as the Court in each instance shall deem sufficient.

3. Upon the hearing of any such petition, it shall be lawful for the Court to receive in evidence the books kept by the Assistant Crown Commissioner, and to treat the Assistant Crown Commissioner as being the Agent of both parties lawfully authorised to make contracts in their behalf, and to receive parole evidence in explanation of any written memoranda contained in such books, but not so as to contradict the clear meaning of any memorandum, and to treat any note or memorandum written in such books by such Assistant Crown Commissioner, or by his Clerk, as a note in writing signed by the lawfully authorized Agent of all parties necessary for carrying out the same into effect. Any statute, or rule, or law of evidence, to the contrary in any wise notwithstanding.

4. So soon as such petition shall be filed, the said Court shall have the same jurisdiction over the subject matter thereof, and the parties presenting the same, and all parties entitled to appear thereon, as if a suit had been instituted regularly between the same parties, and respecting the same subject matter. And upon the hearing of any such petition, it shall be lawful for the Court to adjourn the hearing of such petition for any purpose, or to dismiss the same, or to make any declaration of title respecting the lot, or the part of the lot, therein mentioned, as shall seem just; and to make all such orders, and give all such directions to the proper authorities, for executing and delivering out proper conveyance, as shall be deemed necessary.

5. It shall be lawful for the said Court to treat any person who shall be found in the unmolested possession of any such town lot, or any part thereof, and who shall, while in such possession, have paid instalments of the purchase money under the said lease, as a mortgagee in possession, or a purchaser, as the case may be, of the whole interest of the original lessee.

6. It shall be lawful for the Court, where the title to part of any lot shall appear sufficiently clear, and the title to other part shall not appear clear, to make such declaration as to the part which shall be clear, as shall seem just, and to reserve all declarations of title as to the remaining parts of the lot. And it shall also be lawful for the said Court, where two or more persons shall appear to be entitled, in undivided shares, to any lot, or part of a lot, to direct a division of the said lot, or part of a lot, in the same manner as on a partition suit, properly constituted, if either of the persons so entitled shall so require. And, also, where any person shall be declared entitled in severalty to a portion of a lot, to direct that a several conveyance shall be made from the Crown to such person, of the portion to which he shall appear to be entitled.

7. Any order of the said Court, made on the hearing, or adjourned hearing, of any such petition, shall be a complete indemnity to all persons acting in obedience thereto, or conformity therewith, and shall operate as a complete bar to all actions, suits and proceedings, against any persons presenting or served with such petition, or a copy thereof, or acting in pursuance of any order made thereupon, save only that any person feeling aggrieved at any order made upon any such petition, may, within one calendar month from the date thereof, apply for a re-hearing of the same. And it shall be lawful for the Court to grant any such application, upon such terms as to giving security for prosecuting such re-hearing, and abiding the further order to be made thereon, as to the said Court shall seem fit.

8. Any person served with a copy of the said petition, and not appearing thereon, may be deemed at the hearing to have abandoned all claim to the subject matter mentioned in the said petition.

9. The costs of all parties appearing on such petition, shall be in the discretion of the Court.

10. This Proclamation may be cited on all occasions as "The Town Lot Leases Relief Act, 1860."

..... L. S. .....

Issued under the Public Seal of the Colony of British Columbia, at Victoria, Vancouver Island, this eighth day of May, in the year of our Lord one thousand eight hundred and sixty, and in the twenty-third year of Her Majesty's reign, by me,

JAMES DOUGLAS

By command of His Excellency.

WILLIAM A. G. YOUNG.

Acting Colonial Secretary.

GOD SAVE THE QUEEN.

(The Schedule above referred to.)

FORM A.—PETITION.

TO THE SUPREME COURT OF CIVIL JUSTICE IN BRITISH COLUMBIA.

The Petition of John William Smith, of Fort Hope, sheweth as follows, viz:

1st. On the day of 1858 Thomas Brown, of Fort Hope, became entitled to a town lot there, being lot No. 90, in Block C. on the official map, under a lease from the Crown according to the established printed form, such lease being dated on the said day of

2nd. On or about the day of 1858, the said Thomas Brown sold the said lot to Robert Jones.

3rd. On or about the day of 1859, the said Robert Jones agreed verbally for a valuable consideration to hold the said lot in partnership, in equal shares with Peter Robinson and Hiram Coles. The said Robert Jones and Hiram Coles shortly afterwards went to the upper country, and have never since been heard of, and it is not known whether they, or either of them are alive or dead, or if dead, who are their heirs, or the heirs or either of them.

4th. The said Peter Robinson ever after such departure, and until the 18th of October 1859, continued in possession of the said lot, and paid all the instalments thereon, and assumed to be the sole owner thereof, and on the 18th day of October 1859, he sold the corner part thereof, fronting forty feet on Douglas street, to your petitioner in fee for £80.

5th. The said original lease has been lost.

6th. The said Peter Robinson afterwards went to Victoria, Vancouver's Island, with the intention of proceeding to San Francisco, and then returning hither, but he has not yet returned.

7th. The last known place of abode of Thomas Brown, Robert Jones, Peter Robinson and Hiram Coles, was at Fort Hope aforesaid, (these names and addresses to be in a tabular form if more than one.)

8th. No other person is known to your petitioner, who does or is entitled to claim any part of the said lot prior to your petitioner becoming entitled thereto.

Your petitioner therefore prays that he may be declared entitled to the fee simple of the corner of the

said lot, viz: Forty feet fronting on Douglas street, and entitled to have a grant from the Crown of such portion and that all proper directions may be given in that behalf or that such other order may be made herein, as shall be just.

And your petitioner will ever pray

JOHN WILLIAM SMITH.

FORM B.—AFFIDAVIT.

IN THE SUPREME COURT OF CIVIL JUSTICE OF BRITISH COLUMBIA.

In the mater of the "Town Lot Leases Relief Act 1860," ex parte. John William Smith.

I, John William Smith, do swear that all the statements in the annexed Petition by me presented this day, to this honorable Court. so far as they are within my own knowledge are true, and that so far as they are not withi. my knowledge, I believe them to be true.

NOTICE TO CREDITORS.

PURSUANT to an Order of the Supreme Court of Civil Justice, made in the matter of the Estate of Horace Rising, deceased, on the petition of William Telfor, all persons claiming to be Creditors of Horace Rising, late of Broad street, Victoria, in the District of Victoria, Sawyer, who died in or about the month of January, A. D. 1859, are in person, or by their solicitors, on or before the Seventh day of June, A. D, 1860, to come in and prove their debts or claims, at the Chambers of the Chief Justice, in the Court House, Victoria, or, in default thereof, they will be peremptorily excluded from the benefit of the said order. Wednesday, the Fifteenth day of June, at ten o'clock in the forenoon, at the said Chambers, is appointed for hearing and adjudicating upon the claims.

Dated this Third day of May, A. D. 1860.

THOS. G. WILLIAMS,
Registrar.

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TO THE FREEHOLDERS IN SOOKE DISTRICT.

GENTLEMEN:—Having received instructions from His Excellency the Governor, to lay out the High Road in the Sooke District, I have the honor to request that a Committee of Three be appointed to assist me in determining the position of the road.

I have the honor to be, gentlemen,
Your most obedient servant,
(Signed,) B. W. PEARSE,
Acting Colonial Surveyor.

Lands and Works Office, Victoria,
May 7th, 1860.

SUPREME COURT OF CIVIL JUSTICE OF BRITISH COLUMBIA.

GENERAL ORDER OF COURT.

THIS Court will sit at Lytton on the 25th May; Cayoosh on the 31st May; Douglas on the 10th July; Yale on the 17th July; Hope on the 24th July; New Westminster on the 31st July, or as near after such days as the state of communications will permit. On each day at 11 o clock, A. M.

MATT. B. BEGBIE, J.

New Westminster, 25th April 1860.

TO THE FREEHOLDERS IN VICTORIA, ESQUIMALT, METCHOSIN, LAKE, NORTH AND SOUTH SAANICH DISTRICTS.

GENTLEMEN:—Having received instructions from His Excellency the Governor, to lay out the High Roads in the above Districts, I have the honor to request that you will hold a Public Meeting, in each of the several Districts, and appoint a Committee of Three or each District, to assist me in determining the position of the roads. And further, that you will appoint a day for the Committee and myself to reconnoitre and define such roads.

I have the honor to be, gentlemen,
Your most obedient servant,
B. W. PEARSE,
Acting Colonial Surveyor.

Lands and Works Office, Victoria,
April 23d, 1860. a24

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